



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/840,548	04/03/97	JOHNSON	L 225557

CUSHMAN DARBY & CUSHMAN
1100 NEW YORK AVENUE NW
NINTH FLOOR EAST TOWER
WASHINGTON DC 20005-3918

33M1/0805

EXAMINER	
TUCKER, G	
ART UNIT	PAPER NUMBER
3309	

DATE MAILED: 08/05/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/840,548

Applicant(s)

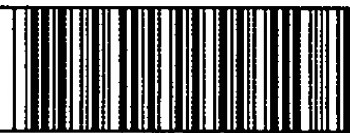
Johnson

Examiner

Guy Tucker

Group Art Unit

3309



☒ Responsive to communication(s) filed on Apr 3, 1997.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3-5, and 7-13 is/are pending in the application.

Of the above, claim(s) 9-13 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 4, 5, 7, and 8 is/are rejected.

☒ Claim(s) 3 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit 3309

Claims 9-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 3.

Applicant is advised that should claims 4 and 5 be found allowable, claims 7 and 8 will be rejected under 35 U.S.C. 101 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to reject the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this office action:

A person shall be entitled to a patent unless --

(B) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 7 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ellis (5,171,248). Ellis discloses a handle (unnumbered T element), a rod (12) and fins projecting in opposite directions (72). Note that the intended use of the claimed device has been considered but does not serve to structurally distinguish the claim over the applied reference.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and

Serial No. 08/840,548

-3-

Art Unit 3309

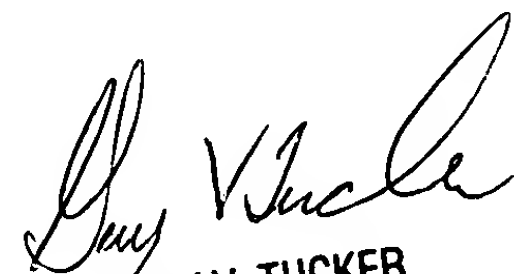
any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Guy Tucker at telephone number (703) 308-3271. Examiner Tucker can normally be reached on Monday through Thursday from 7:00 AM to 5:30 PM, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, examiner Tucker's supervisor, Michael Buiz, can be reached at (703) 308-0871. The fax number for Group 3300 is (703) 305-3590 or 3591.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 3300 receptionist at (703) 308-0858.

GVT
August 4, 1997


GUY V. TUCKER
PRIMARY EXAMINER
GROUP 3300